

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:07-cr-155-01

v.

HONORABLE PAUL L. MALONEY

ERVIN FANCE,

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Ervin Fance has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to drug quantity.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to drug quantity, and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10(c).

However, the defendant is not eligible for a sentence modification because he was sentenced as a career offender. As a career offender, the defendant's sentencing guideline range was calculated under U.S.S.G. § 4B1.1, not under U.S.S.G. § 2D1.1 or 2D2.1. Therefore, Amendment 782 does not retroactively lower the defendant's sentencing guideline range.

Accordingly,

IT IS HEREBY ORDERED that Defendant Ervin Fance's motion modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) and for appointment of counsel (ECF No. 152) is **DENIED**.

Date: February 13, 2015

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge